

United States Senate

WASHINGTON, DC 20510-1401

January 5, 2010

The Honorable Greg Zoeller
Office of the Indiana Attorney General
Indiana Government Center South
302 West Washington Street
Indianapolis, Indiana 46204

Dear Attorney General Zoeller:

On December 24, 2009, the Senate passed H.R. 3950, the Patient Protection and Affordable Care Act, by a vote of 60-39. Throughout the debate on this legislation in the Senate numerous concerns have been raised, including the potential constitutionality of the proposed reforms.

During Senate consideration of H.R. 3950, Senators Hutchison and Ensign raised points of order challenging the bill's constitutionality under Article I, Section 8, of the Constitution as well as the Fifth and Tenth Amendments. I voted in favor of both of these constitutional points of order, which failed by votes of 60-39, along party lines. However, these votes occurred merely five days after the release of the legislative language, which is an inadequate opportunity for study and debate of important constitutional issues. There is now time for state Attorneys General to review this issue and inform both the House and Senate conferees about these considerations.

Pursuant to Title 4, Article 6, Chapter 8, Section 2, of the Indiana Code, which authorizes the Indiana Attorney General to "make any reasonable or appropriate investigation or study of any such existing or proposed federal legislation whenever he is specifically requested so to do by any of this state's senators or representatives in congress," please review the current proposals and advise the House and Senate conferees in order that their deliberation may be founded on stronger constitutional grounds.

Thank you for your attention to this matter.

Sincerely



Richard G. Lugar
United States Senator

RGL/joj